



05-19-06

5DAG12663  
IFW

Attorney Docket No.: 003997P007

Patent

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Han C. Wen, et al.

Serial No.: 09/846,452

Filed: April 30, 2001

For: METHOD OF ACCELERATING TCP FLOWS  
IN COMMUNICATION NETWORKS WITH  
DYNAMIC CONTROL

Examiner: Duong, Duc T.

Art Unit: 2663

Assistant Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450PETITION UNDER 37 C.F.R. § 1.182 TO WITHDRAW THE NOTICE OF  
ABANDONMENT (ALTERNATIVELY, PETITION UNDER 37 C.F.R. § 1.137(a) TO  
REVIVE)

Sir:

Applicants hereby petition under 37 C.F.R. § 1.182 to withdraw the abandonment of this patent application.

It is respectfully submitted, however, that a timely response to the Office Action mailed on January 12, 2006 from the U.S. Patent and Trademark Office ("PTO") was deposited with U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on May 12, 2006 and was addressed to the Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

"Express Mail" mailing label number EV839870631USDate of Deposit May 17, 2006

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

Sandra Espinoza

(Typed or printed name of person mailing paper or fee)

Sandra Espinoza  
(Signature of person mailing paper or fee)

400.00 UP

05/22/2006 SHASSEN1 00000007 09846452

01 FC1462

Adj. amount date: 07/10/2006 CKHLOK  
05/22/2006 SHASSEN1 00000007 09846452 -400.00 UP  
01 FC1462

Serial No.: 09/846,452

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Attorney Docket No.: 003997.P007

Repln. Ref: 07/10/2006 CKHLOK 0012050400  
DAB:022666 Name/Number:09846452  
FC: 9204 \$400.00 CR

Enclosed is a copy of the Amendment that was filed with the PTO on May 12, 2006.

Applicants' believe that this abandonment was a mistake of the PTO. The PTO mistakenly mailed a Notice of Abandonment on May 3, 2006 with respect to patent application number 09/846,452. This Notice of Abandonment was totally erroneous because an Office Action had been mailed by the PTO on January 12, 2006, having a shortened statutory period for reply set to expire on April 12, 2006 and a maximum statutory period for reply set to expire on July 12, 2006. Applicants had not expressly abandoned application number 09/846,452. Applicants did not abandon application number 09/846,452 in any way.

In accordance with 37 C.F.R. § 1.136(a), an applicant may extend the time period for reply up to the expiration of any maximum period set by statute, if a petition for an extension of time and the fee set in 37 C.F.R. § 1.17(a) are filed. In accordance with 37 C.F.R. § 1.135, a reply must be filed prior to the expiration of the period of extension to avoid abandonment of the application.

Given that applicants mailed on May 12, 2006 (1) an Amendment, (2) Petition for Extension Of Time Pursuant to 37 C.F.R. § 1.136(a) and (3) Fee Transmittal using the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R § 1.10, applicants respectfully submit that abandonment is in error.

Applicants therefore respectfully request reconsideration and withdrawal of the holding of abandonment of the above-identified patent application on the basis that there was in fact no abandonment.

Enclosed is a check for \$400.00 for the fee under 37 C.F.R. § 1.17(f) for this Petition. Applicant also requests a refund of the petition fee because no defect on the part of the applicants exists. If there are any additional charges, please charge Deposit

Account No. 02-2666. A duplicate of this Petition is enclosed for deposit account charging purposes.

Alternatively, applicants hereby petition under 37 C.F.R. § 1.137(a) that the application be revived given that the delay was unavoidable because applicants in fact sent a response as shown above and, through no fault of applicants, the response was apparently ignored by the PTO in favor of an erroneous Notice of Abandonment. There is simply no practical way for applicants to have avoided this holding of abandonment given that there was no basis whatsoever for the Notice of Abandonment by the PTO. If this petition under 37 C.F.R. § 1.137(a) is accepted, please charge Deposit Account No. 02-2666 for the fee necessary for this petition.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: May 17, 2006

  
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Lester J. Vincent  
Reg. No. 31,460

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**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

**REQUEST FOR PATENT FEE REFUND**

1 Date of Request: <u>07/10/06</u>		2 Serial/Patent # <u>09/846,452</u>	
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED
<input type="checkbox"/> Filing			\$
<input type="checkbox"/> Amendment			\$
<input type="checkbox"/> Extension of Time			\$
<input type="checkbox"/> Notice of Appeal/Appeal			\$
<input checked="" type="checkbox"/>	Petition	IFW	05/17/06 \$ 400.00
<input type="checkbox"/> Issue			\$
<input type="checkbox"/> Cert of Correction/Terminal Disc.			\$
<input type="checkbox"/> Maintenance			\$
<input type="checkbox"/> Assignment			\$
<input type="checkbox"/> Other			\$
		7 TOTAL AMOUNT OF REFUND	\$ 400.00
10 REASON:		8 TO BE REFUNDED BY:	
<input type="checkbox"/> Overpayment		Treasury Check	
<input type="checkbox"/> Duplicate Payment		<input checked="" type="checkbox"/> Credit Deposit A/C #:	9 0 2 -- 2 6 6 6
<input checked="" type="checkbox"/>	No Fee Due (Explanation):  Petition under 1.181 does not currently require fee.		
11 REFUND REQUESTED BY:			
TYPED/PRINTED NAME: <u>Nancy Johnson</u>		TITLE: Sr. Petitions Attorney	
SIGNATURE: <u>Nancy Johnson</u>		PHONE: 571-272-3219	
OFFICE: <u>Office of Petitions</u>			
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APPROVED: <u>C. Johnson</u>		DATE: <u>7/10/06</u>	

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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